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EXAMINER

JOHNSON, JERROLD D

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 4-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 remains indefinite. The claim needs to be re-written so that the reader can fully appreciate the structural relationship of claim elements. The claim sets forth a channel, but one of ordinary skill in the art reading the claim would not reasonably understand what claim elements actually define the channel. Additionally, one of ordinary skill in the art reading the claim would not reasonably understand where the lower end wall and the groove are located in relation to the front side. This problem is compounded by the poorly written specification. Additionally, the Applicant has added the expression "magnet means" to the claims. There is no corresponding recitation for this limitation in the specification, and no discernable reason for doing this. If it is the Applicant's intention to invoke 35 USC 112 6<sup>th</sup> paragraph, the intention has not been accomplished. Additionally, there are grammatical errors in the claim that add further confusion. For example, the second line of the claim includes two commas that are grammatically incorrect in their usage. Correction will be required.

The following is an example of what could be done to the claim to make it comply with 35 USC 112.

a first non-magnetic housing comprising:

a front side comprising a substantially planar lower portion and a curved upper portion, the curved upper portion extending away from the plane of the lower portion so as to define an intersection line at the intersection of the planar lower portion and the curved upper portion, the intersection line forming a fulcrum;

a pair of sidewalls, the sidewalls and the front side defining a channel opening outwardly along the front side of the housing;

an upper wall;

a lower end wall....;

a groove...; and

a first magnet...

The Examiner should be consulted before the filing of an RCE with claim amendments. It is not the Examiner's intention to force the Applicant to unnecessarily limit the claims. It is the Examiner's intention to only allow patent claims that meet 35 USC 112. The Examiner is also willing to draft proposed claims for review by the Applicant. These claims could then be filed with an RCE. The Applicant should not expect that claim amendments that are filed after this final rejection to correct the indefiniteness would be entered. Any amendment will necessarily require additional review to determine if the requirements of 35 USC 112 have been met. The Applicant has chosen to present an application that is below the threshold of definiteness required by 35 USC 112, and the filing of an RCE to overcome the rejection will be necessary.

***Allowable Subject Matter***

The claims set forth allowable subject matter in a confusing manner that does not meet 35 USC 112. The claims require revision before they will be allowed.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 3728


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerrold Johnson whose telephone number is 571-272-7141. The examiner can normally be reached on 9:30 to 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JDJ



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Group 3700